

Amendment No. 1 to SB1154

Kelsey
Signature of Sponsor

AMEND Senate Bill No. 1154*

House Bill No. 1207

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. This act is known and may be cited as "The Learning Pod Protection Act."

SECTION 2. Tennessee Code Annotated, Title 49, Chapter 6, is amended by adding Sections 3-6 as a new part.

SECTION 3.

As used in this part:

(1) "Learning pod" means a voluntary association of parents choosing to group their children together at various times or places to participate in or enhance their children's kindergarten through grade twelve (K-12) education, regardless of whether payment is made for any services provided to the children participating in the learning pod. A "learning pod" is not a nonpublic school as defined in § 49-6-3001(c)(3);

(2) "Operation of a learning pod" means the organization, facilitation, management, operation, or educational activity of a learning pod in any facility, home, or other structure by the parents of children participating in the learning pod and any other individuals assisting those parents while engaged in any actions of the learning pod; and

(3) "Parent" means the parent or guardian of any child who has not graduated from high school or reached twenty-two (22) years of age, whichever comes first.

SECTION 4. The purpose of this part is to allow parents to voluntarily associate in learning pods to advance the parents' children's kindergarten through grade twelve (K-12) education without being subject to restriction or regulation as provided in this part.

SECTION 5.

(a) The state and its agencies, local governments, and LEAs shall not regulate or control a learning pod, except as provided in this part. Notwithstanding any law to the contrary, a learning pod is exempt from state and local regulation specific to education or educational facilities, including:

(1) All provisions of this title and state board of education rules, policies, and guidelines, including, but not limited to:

(A) Section 49-1-104 and any state board policy on special education caseload and class size standards, and any other law, rule, policy, or guideline concerning class size standards, caseloads, and the number of teachers required;

(B) Chapter 5, part 1 of this title, § 49-5-403, and rules of the state board on educator licensure, and any other law, rule, policy, or guideline concerning licensure, endorsement, and certifications of teachers or other staff;

(C) Section 49-5-413 and any other law, rule, policy, or guideline concerning criminal history records checks of teachers, other staff, or contractors and their employees; and

(D) Rules of the state board on school facilities or any other law, rule, policy, or guideline concerning school facilities;

(2) Local and state building or fire codes adopted pursuant to title 68, chapter 1, part 1, and any rules of the department of commerce and insurance, division of fire prevention, on fire prevention applicable to educational facilities. Buildings used by learning pods must meet the building and fire safety standards for the building's primary use and occupancy; and

(3) Any other state or local statute, rule, or code that would not be applicable to a group, building, or facility but for the operation or presence of a learning pod. The presence of a learning pod shall not change the permitted use

of the property and shall not subject the property to a special use or conditional use permit or procedure other than what is required for general use of the property.

(b) Notwithstanding any law to the contrary, a state, local, or LEA employee shall not initiate or conduct any site inspection or other investigation or visit that would not have been initiated or made but for the operation or presence of a learning pod.

(c) An LEA shall not take any action or otherwise discriminate against or distinguish a student or parent on the basis of their participation in a learning pod.

(d) Notwithstanding any law the contrary, a state agency, local government, or LEA shall not require a learning pod to register or otherwise report its existence or any information related to the operation of the learning pod to the state agency, local government, or LEA.

(e) A child who participates in a learning pod satisfies the compulsory attendance requirements applicable to the child pursuant to § 49-6-3001, if the child is enrolled in a public school, as defined in § 49-6-3001(c)(3); a church-related school, as defined in § 49-50-801; or a private school, as defined in § 49-6-3001(c)(3). If a child is not enrolled in a public school, church-related school, or private school, then the child's parent must comply with the requirements of § 49-6-3050(b) for the child's participation in a learning pod to satisfy the compulsory attendance requirements.

(f) This section does not alter the regulation of any day care center, child care center, home day care center related to operations, or other matters not directly related to the operation of a learning pod. Learning pods are exempt from licensing if they satisfy the requirements of § 71-3-503(a)(5).

SECTION 6. The following burdens of proof apply to administrative or judicial hearings or other actions regarding this part:

(1) Compliance with any law, rule, policy, guideline, or standard of this state, a local government, or an LEA, or any other action with this part is a judicial question and must be determined without regard to any assertion of compliance with this part; and

(2) The state, local government, or LEA that adopted the law, rule, policy, guideline, or standard, or that took any other action is required to establish by clear and convincing evidence that the law, rule, policy, guideline, standard, or action:

(A) Does not unduly impede the freedom of parents or guardians to provide care for, and supervision of, their children;

(B) Does not single out educational activities while similar gatherings of children for recreational or social activities remain unregulated;

(C) Is narrowly tailored to protect the public health and safety; and

(D) Does not otherwise conflict with the requirements of this part.

SECTION 7. If any provision of this act or its application to any person or circumstance is held invalid, then the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end, the provisions of this act are severable.

SECTION 8. This act takes effect upon becoming a law, the public welfare requiring it.